

### **RESTRICTION REQUIREMENT**

The Examiner requires restriction under 35 U.S.C. § 121 and 372 to one of the following inventions:

- I. Claims 1-7 and 13-14, allegedly drawn to a fluorescent indicator generating fluorescence resonance energy transfer (FRET) via a donor and acceptor that are circularly permuted by amino acid substitutions, classified in class 436, subclass 546, and class 536, subclass 26.6, for example.  
(A first product)
- II. Claims 8-12, allegedly drawn to a fluorescent indicator further comprising a target peptide component and a linker component, classified in class 436, subclass 546, and class 536, subclass 26.6, for example.  
(A second product)
- III. Claim 15, allegedly drawn to a fluorescent indicator comprising any one of sequence identification numbers 42, 43, 44, 45 and 46, classified in class 530, subclass 300/350, for example. (A third product)
- IV. Claims 16-18, allegedly drawn to a method employing a fluorescent indicator, classified in class 435, subclass 7.1, for example.  
(A first method/process)
- V. Claims 19-22, allegedly drawn to nucleic acid constructs encoding a fluorescent indicator, classified in class 435, subclass 89, for example.  
(A fourth product)

### ELECTION

In order to be responsive to the requirement for restriction, Applicants elect, with traverse, the invention set forth in **Group I, claims 1-7 and 13-14**, drawn to a fluorescent indicator generating fluorescence resonance energy transfer (FRET) via a donor and acceptor that are circularly permuted by amino acid substitutions.

### TRAVERSE

Notwithstanding the aforementioned election, Applicants respectfully traverse the requirement for restriction.

Applicants note that this application is a national stage application, and therefore under unity of invention practice the Examiner must establish that the claims lack unity of invention under PCT Rule 13.1 and 37 C.F.R. § 1.475.

The Restriction Requirement identifies “a fluorescent indicator molecule” as the linked special technical feature of claims 1-22, and asserts that in view of the disclosures of U.S. Patent No. 6,699,687 to Tsien et al. and Baird et al. (Proc. Natl. Acad. Sci., USA, 1999, Vol. 96, No. 20, pp. 11241-11246) the special technical feature “recited in claims 1-22 is not a contribution over the prior art.”

Applicants respectfully submit that the Office will be required to withdraw the Restriction Requirement upon reciting subject matter that is not disclosed in the art. Applicants respectfully reserve the right to rebut any statement that the Office has made relating to the disclosure of the cited art.

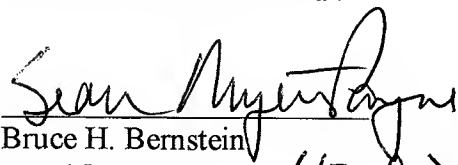
Applicants further note that in the instant situation, the requirement does not refer to PCT Rule 1.475, and does not indicate that the requirement is proper in view of this rule. The requirement is improperly silent with respect to any supporting basis in PCT

Rule 1.475. Therefore, the Restriction Requirement is improper for not discussing the various sections of PCT Rule 1.475, and applying these rules to the pending claims.

In view of the foregoing, it is respectfully requested that the Examiner reconsider the Requirement for Restriction.

If there are any comments or questions, the undersigned may be contacted at the below-listed telephone number.

Respectfully submitted,  
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